CHEN CHI NAN v. GOH HOE SEONG & ORS.

[A.C.J. (Chua J.) May 20, 1958]

[Singapore — District Court Appeal No. 22 of 1956]

Landlord and Tenant — Recovery of possession — Town improvement — General Improvement Plan and Master Plan — Control of Rent Ordinance (Cap.242), s.15(1)(k) — Singapore Improvement Ordinance (Cap.259), ss.61(1), 62(1) and (8).

The landlord in this case sought to recover possession of a row of 10 shop-houses from the defendants/respondents under section 15(1)(k) of the Control of Rent Ordinance on the ground that the demolition of the houses in question was necessary in the interest of town improvement. These shop-houses were at least 50 years old with no modern sanitation and no back lane and did not comply with some of the by-laws relating to buildings. The landlord proposed to demolish these shophouses and erect a six-storey building with a new back lane and parking space at the back. It was contended on behalf of the defendants that the erection of a solitary new building on the site unrelated to any other building activity in the vicinity was not town improvement; there must be a plan for the development of the whole area in which the building in question was situated, i.e., a plan affecting the site in relation to other sites.

Held: (1) the Master Plan produced by the Singapore Improvement Trust is designed for the Colony improvement and so any proposed rebuilding which is in accordance with the Master Plan indicates that such rebuilding is an improvement from the point of view of town improvement;

(2) the District Judge has no discretion to exercise under section 15 (1)(k) of the Control of Rent Ordinance.

Cases referred to:—

(1) *Kwek Kim Hock v. Ong Boon Siong*, (1954) M.L.J. 253.

(2) *Chew Kai & Anor. v. Poh Tai Co.*, (1957) M.L.J. 43.

DISTRICT COURT APPEAL.

L. Rayner for the appellant.

Lee Kuan Yew for the respondents.

Cur. Adv. Vult.

Chua J.: — This is an appeal from a judgment of the District Court. The appellant issued nine summonses in the District Court and these summonses were heard together.

The question which arises is whether the appellant should be given possession of a row of 10 shophouses in Joo Chiat Road numbered (by odd numbers) from 1 to 19 under section 15(1)(k) of the Control of Rent Ordinance, 1953.

Section 15(1)(k) enables a landlord to recover possession where demolition is necessary in the interest of town improvement.

The District Court held that the demolition of these shophouses was not necessary in the interest of town improvement.

On the application of Mr. Rayner for the appellant the appeal in which Goh Hoe Seong is the respondent is adjourned as there are negotiations for a settlement.

The shophouses in question are at least 50 years old with no modern sanitation and no back lane and they do not comply with some of the present by-laws relating to buildings. The plaintiff proposes to demolish these shophouses and erect a six-storey building, covering the whole area of these shophouses and the area of No. 8 Changi Road, with a new back lane and parking space at the back. There would be twelve shops on the ground floor. The first floor would be given to offices, the 2nd and 3rd floors would be flats, the 4th and 5th floors would be a hotel with a roof garden. Modern sanitation would be installed. It is not disputed that the appellant's plan to put up this new building and to provide a new back lane has been approved by the Singapore Improvement Trust.

The appellant says that the demolition of the shophouses in question is necessary in the interest of town improvement.

The arguments of the appellant are that unless his scheme is for the benefit of town improvement and complies with the Master Plan the Singapore Improvement Trust would not have approved it and further says that once this scheme has been approved by the Singapore Improvement Trust it becomes part of the General Improvement Plan which is a statutory plan of town planning in Singapore at present.

The respondents, however, say that the term "town improvement" has been judicially interpreted by this Court. Mr. Lee Kuan Yew for the respondents Nos. 2 to 9 cited the case of *Kwek Kim Hock v. Ong Boon Siong*[1] in which Taylor, J. in the course of his judgment said (at p.254):—

> "In one sense any replacement of a poor building by a better one may be thought an improvement to the town, but in this context the expression conveys the idea of town planning. There need not be a general town plan. It might be no more than a building line for one street but there must be a scheme made or approved by a local authority, affecting the site in relation to other sites.

Mr. Lee emphasised the words underlined above and contends that the principle laid down by Taylor, J. is that for there to be a town improvement there must not only be a plan for rebuilding of one site only in a particular area but there must also be plans for rebuilding on

other sites in that area. He drew the Court's attention to the evidence of Mr. Firshman, the Planning Officer in the Singapore Improvement Trust, who said that no application for rebuilding had been made in respect of houses on the opposite side of the road. So Mr. Lee argues the only plan for rebuilding in this area is the appellant's plan and all that the appellant wants to do is to knock down ten houses and put up a six-storey building and this is not town improvement.

Mr. Lee says that the principle laid down by Taylor, J. was followed by Whyatt, C.J. in the case of *Chew Kai & another v. Poh Tai Co.*[2] In that case the plaintiff sought to recover possession of shop premises No. 37 New Bridge Road, Singapore which he intended to demolish for the purpose of rebuilding. Evidence was led that the Singapore Improvement Trust had drawn up a plan for the re-development of the area in which No. 37 New Bridge Road stood and the Singapore Improvement Trust plan called for extensive demolition and rebuilding. Whyatt, C.J. held that this plan of the Singapore Improvement Trust was a plan for town improvement and any measures which were taken from time to time to implement it constituted town improvement within the meaning of section 15(1)(k) and therefore the plaintiff was entitled to an order for possession. Mr. Lee contends that the decision of Whyatt, C.J. is to this effect — there can be no town improvement unless there is a plan for the rebuilding of an area. I am unable to agree with this. No where in his judgment did the Chief Justice say there must be a big scheme before there could be town improvement.

I now turn to the evidence in this case. Mr. Firshman, the Planning Officer of the Singapore Improvement Trust said in evidence:

"The Department (Planning Department of the Singapore Improvement Trust) is responsible for the statutory control of planning and development for Singapore. The Authority is given under Cap. 134 (McElwaine Edn.).

Subsequent to 1.1.1926 all new plans must be approved by the Trust. Since 1.1.52 the Board of S.I.T. is responsible for the production of the Master Plan.

The M.P. is designed for the Colony improvement. Any application after 1.1.52 would be considered with reference to the M.P. When the Board has approved any plan, the plan then forms part of the M.P. The age and condition of existing buildings are considered. They are not the only factors.

There will be cases, when after the M.P. has come into force, relatively sound and new buildings will be demolished. I agree that where such demolition is necessary, it is necessary in the interests of town improvement. The Board has powers to approve and disapprove any proposed building in the Colony.

I remember plans submitted in respect of Nos. 1-19 Joo Chiat Road. The plans were first submitted on 1.9.52. The plans as submitted then were not approved. There was after that discussions with the Architect at which I was present.

As a result an amended plan was submitted. The new plans were approved on 1.4.53. The Traffic Problem is one of the factors taken into consideration in the Master Plan. Taking that factor and other factors into consideration, I would say that the plans as approved are in the interests of town improvement."

The Master Plan has not yet been finalised although this point was not brought out at the hearing. However, the rebuilding scheme of the appellant has been approved by the Singapore Improvement Trust and that means that it is in accordance with the Master Plan as it now exists. The Master Plan is designed for the Colony improvement and so any proposed rebuilding which is in accordance with the Master Plan indicates that such rebuilding is an improvement from the point of view of town improvement.

The Summonses were heard by the District Court between December 1954 and March 1955 and the Singapore Improvement Ordinance which was in force then was the Singapore Improvement Ordinance Cap. 134 of the 1936 Edition of the Laws of the Straits Settlements (which I will refer to as the Ordinance). There was then and still is a statutory plan of town planning in Singapore known as the General Improvement plan.

Section 58(1) of the Ordinance provided that:

"No person shall, without the written permission of the Board, erect any building or lay out any land or use any land or building in any manner which is not in conformity with the General Improvement Plan."

and section 59(1) of the Ordinance read as follows:

"Every person who intends to make or lay out any new street or new back-lane or to lay out any land in lots for building purposes shall give notice thereof in writing to the Board, accompanied by a plan in duplicate showing the intended block plan with full dimensions of all such streets, back-lanes or building lots, as the case may be, in order that the same may be approved or disapproved by the Board.

The appellant's plan was no doubt submitted to and approved by the Singapore Improvement Trust under the provision of section 59 of the Ordinance and by section 59(7) if such plan was approved then the Singapore Improvement Trust must forthwith embody such plan in the General Improvement Plan.

Sections 58(1), 59(1) and 59(7) of the

Ordinance have been re-enacted in the new Singapore Improvement Ordinance, Cap. 259 of the 1955 Edition of the Laws of the Colony of Singapore and re-numbered section 61(1), section 62(1) and section 62(8) respectively.

The rebuilding scheme of the appellant is not only in accordance with the General Improvement Plan but it has also been incorporated in the General Improvement Plan which, as I have said, is a statutory plan of town planning in Singapore. In my view the new building which the appellant proposes to erect is a town improvement within the meaning of section 15(1)(k).

I am therefore of the opinion that the demolition of these 10 shophouses is necessary in the interest of town improvement.

Mr. Lee has raised another point. He submits that the words "the Court is satisfied" appearing in section 15(1)(k) give the District Judge a discretion whether to give possession to the landlord or not and that such discretion is absolute. I need only say that in my opinion the District Judge has no discretion to exercise under section 15(1)(k).

The appeal is therefore allowed with costs.

Appeal allowed.

Solicitors: *L. Rayner*; *Lee & Lee.*

Re Election Petition of CHEAH SENG TEIK

[O.C.J. (Rigby J.) February 26, 1958]

[Penang — Election Petition No. 2 of 1957]

Local Authority — Election — Objection to nomination on ground of language disability — Procedure — Election Offences Ordinance, 1954, ss.14(b), 32, 34 and 35 — Local Authorities Elections Regulations, 1951, reg.25 — Constitution of the Butterworth Town Council, s.14(b).

This was an election petition presented by the petitioner, Cheah Seng Teik, who was a candidate duly nominated by the Alliance Party to contest the Butterworth Town Council Elections. The petitioner and one Mrs. Oon Beng Hong, a Labour Party nominee, were the sole contestants for the election in respect of the Northern Ward. After the Returning Officer had declared that the nominations were closed, Mrs. Oon presented a written objection to the petitioner's nomination on the ground that he had not the necessary linguistic qualification in either the English or Malay language. The Returning Officer read out the objection and then proceeded to test the validity of it by examining the petitioner "searchingly in speaking and reading and writing both English and Malay languages." After these tests had been completed the Returning Officer announced that it was not open to Mrs. Oon to object to the petitioner's nomination on language grounds and he accordingly overruled her objection; but as a result of his examination of the petitioner he was fully satisfied that the petitioner had not that degree of language proficiency required to qualify himself for election as a candidate, and he then rejected the petitioner's nomination.

Held: (1) the ruling of the Returning Officer as to Mrs. Oon's objection was perfectly correct;

(2) under the express provisions of regulation 25(3) of the Local Authorities Elections Regulations, 1951, the Returning Officer was fully entitled to raise this objection himself.

Observations on section 32 of the Election Ordinance, 1954.

ELECTION PETITION.

O. L. Phipps for the petitioner.

H. S. Ong (Legal Adviser) for the Returning Officer.

Cur. Adv. Vult.

Rigby J.: — This is an Election Petition presented by one, Cheah Seng Teik, who was a candidate, duly nominated by the Alliance Party, to contest the Butterworth Town Council Elections in respect of the Northern Ward. The election was held on the 5th November, 1957.

It would appear from the petition that the petitioner and one Mrs. Oon Beng Hong, nominated on behalf of the Province Wellesley Labour Party, were the sole contestants for election in respect of the Northern Ward.

After the Returning Officer had declared that the nominations were closed and that objections to nominations could be lodged within the next half hour, the said Mrs. Oon Beng Hong presented a written objection to the Returning Officer against the petitioner on the ground that he was not able to speak and read and write the English or Malay language with a degree of proficiency sufficient to enable him to take an active part in any proceedings as a Town Councillor — an essential prerequisite for qualification to election as a Town Councillor in accordance with section 14(b) of the written Constitution of the Butterworth Town Council as provided by Legal Notification No.112 contained in the Supplement to the Federation of Malaya Government Gazette (Penang Section) dated the 9th April, 1953.

According to the Petition, the Returning Officer "read out the objection and proceeded to test the validity thereof by examining the petitioner searchingly in speaking and reading and writing both English and Malay languages for nearly an hour."

In a subsequent paragraph in the Petition it is said, however, that after the